IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 25697 of 2005

Between:

M. Hymavathamma

..... PETITIONER

AND

The District Collector, Kurnool,

Kurnool District and 2 others

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the action of the 2nd respondent in confirming the orders of the 3rd respondent dated 30.09.2004 by his proceedings No.CS3/402/2004, dated 16.06.2004, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The petitioner is a fair price shop dealer of Shop No.11 of Hussainapuram village of Orvakal Mandal, Kurnool District. The petitioner was also kept as in-charge of shop No.10 of the same village. It appears that the petitioner has not distributed rice to the cardholders for the month of June, 2002 in respect of Shop No.10, and the petitioner also not lifted certain essential commodities and kerosene for the months of July, August, and September, 2002 in respect of Shop No.10. For committing certain irregularities in respect of shop No.10, where the petitioner was put as in-charge dealer, a show cause notice has been issued to her as to why her permanent dealership for shop No.11 shall not be cancelled. The petitioner filed explanation, but the explanation has been rejected and the petitioner authorization in respect of shop No.11 has been cancelled by the 3rd respondent vide his proceedings dated 30.09.2004. As against the said order, the petitioner filed appeal before the 2nd respondent and the 2nd respondent by his order dated 16.06.2005, found that the petitioner has committed certain irregularities in respect of shop No.10 in not supplying the essential commodities to the cardholders in accordance with terms and conditions of the authorization of shop No.10, and as the petitioner was put in-charge of the shop No.10 she ought not to have committed irregularities, and accordingly the appeal has been dismissed, confirming the order of the 3rd respondent in cancelling the permanent authorization of the petitioner in respect of shop No.11.

A perusal of the Andhra Pradesh Public Distribution System (Control) Order, 2001

(for short 'the Control Order') goes to show that there is no power to cancel or suspend the permanent dealership of the fair price shop, if there are no irregularities or violation being committed by the petitioner. Admittedly, there are certain irregularities said to have been committed by the petitioner in the manner of distribution of essential commodities and kerosene to the cardholders in respect of shop No.10 only. Therefore, it is always open for the authorities to withdraw the dealership in respect of shop No.10 wherein the petitioner was temporarily appointed as in-charge to distribute the commodities.

As long as there is no violation in respect of Shop No.11, I am of the opinion that it is not open for the authorities to cancel the dealership of the petitioner in respect of shop No.11. The action initiated against the petitioner in canceling her dealership in respect of shop No.11 for the irregularities committed in respect of shop No.10, is illegal and arbitrary and against the conditions of the Control Order. Therefore, the impugned order dated 30.09.2004 is set aside. But however, it is made it clear that the petitioner has no right or any manner to distribute the essential commodities in respect of shop No.10, and it is open for the authorities to take appropriate action either to make permanent arrangement or temporary arrangement for distributing the essential commodities to the cardholders in respect of shop No.10 is concerned.

With the above observations, the Writ Petition is allowed. No order as to costs.

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V.ESWARAIAH,J

Dated: 02.12.2005

Dsr